

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2018-0518

MANDATORY PENALTY  
IN THE MATTER OF

SIERRA PACIFIC INDUSTRIES, INC.  
SHASTA LAKE DIVISION SAWMILL  
SHASTA COUNTY

WDID NO. 5A452015002

This Administrative Civil Liability Complaint (Complaint) is issued to the Sierra Pacific Industries, Inc. (Discharger), Shasta Lake Division (Facility) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability, and CWC section 13323, which authorizes the Assistant Executive Officer to issue this Complaint. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Orders R5-2010-0034 and R5-2016-0025 (NPDES No. CA0081400).

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. The Discharger owns and operates the Shasta Lake Division Sawmill. Log deck process wastewater and storm water runoff is discharged from Discharge Point D-002 to an unnamed tributary to Churn Creek, a water of the United States.
2. On 21 April 2016, the Central Valley Water Board issued WDRs Order R5-2016-0025, which contained new requirements and rescinded WDRs Order R5-2010-0034, except for enforcement purposes. WDRs Order R5-2016-0025 was effective on 1 June 2016.
3. This Complaint addresses administrative civil liability for effluent limitations violations that occurred from Discharge Point D-002 between 19 January 2016 and 28 February 2017. These violations are specifically identified in Attachment A to this Complaint as subject to mandatory minimum penalties. Attachment A to this Complaint is attached hereto and incorporated herein by this reference.
4. On 19 April 2016 and 27 April 2017, Central Valley Water Board staff issued the Discharger two Notices of Violation and draft Records of Violations for effluent limitation violations that occurred between 19 January 2016 and 28 February 2017.
5. Water Code sections 13385(h) and (i) require the assessment of mandatory penalties and state, in part, the following:

Water Code section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

Water Code section 13385 (h)(2) states,

For the purposes of this section, a 'serious violation' means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

Water Code section 13385(i)(1) states

Notwithstanding any other provisions of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirements to assess the mandatory minimum penalty shall not be applicable to the first three violations.

- a) violates a waste discharge requirement effluent limitation;
- b) fails to file a report pursuant to California Water Code section 13260;
- c) files an incomplete report pursuant to California Water Code section 13260; or
- d) violates a toxicity effluent limitation contained in the applicable waste discharge pollutant-specific effluent limitations for toxic pollutants.

6. Water Code section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

7. WDR Order No. R5-2010-0034 Final Effluent Limitations IV.A.1.a. states the Discharger shall maintain compliance with the effluent limitations specified in Table 6:

**Table 6. Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	1.82	--	3.64	--	--
Lead, Total Recoverable	µg/L	0.32	--	0.63	--	--
Zinc, Total Recoverable	µg/L	5.33	--	10.69	--	--

8. WDR Order No. R5-2010-0034 Final Effluent Limitations IV.A.1.b. states the Discharger shall maintain compliance with the following effluent limitations:

b. **Acute Whole Effluent Toxicity.** Survival of aquatic organisms in 96-hour bioassays of undiluted waste shall be no less than:

- i. 70%, minimum for any one bioassay; and
- ii. 90%, median for any three or more consecutive bioassays.

9. According to the Discharger's self-monitoring reports, the Discharger committed four (4) serious Group II violations of the above effluent limitations contained in WDR Order R5-2010-0034, as shown in Attachment A. The violations are defined as serious because the measured concentrations of the Group II constituent exceeded the maximum prescribed levels in the WDRs by 20 percent or more. Per 13385(h), the mandatory penalty for this type of serious violation is three thousand dollars (\$3,000) per violation.

10. WDR Order No. R5-2016-0025 Final Effluent Limitations IV.A.1.a. states the Discharger shall maintain compliance with the effluent limitations specified in Table 4:

**Table 4. Effluent Limitations**

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
pH	SU	--	--	--	6.0	9.0
Copper, Total Recoverable	µg/L	2.5	--	5.1	--	--
Zinc, Total Recoverable	µg/L	7.0	--	14	--	--

11. According to the Discharger's self-monitoring reports, the Discharger committed six (6) serious Group II violations of the above effluent limitations contained in WDR Order R5-2016-0025, as shown in Attachment A. The violations are defined as serious because the measured concentrations of the Group II constituent exceeded the maximum prescribed levels in the WDRs by 20 percent or more. Per 13385(h), the mandatory penalty for this type of serious violation is three thousand dollars (\$3,000) per violation.

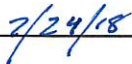
12. The total amount of the mandatory penalties assessed for the alleged effluent violations is **thirty thousand dollars (\$30,000)**. As stated herein, a detailed list of the alleged effluent violations is included in Attachment A. The Complaint addresses administrative civil liability for the violations that are specifically identified in Attachment A as subject to mandatory minimum penalties.

13. Issuance of this Administrative Civil Liability Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321 subsection (a)(2).

**SIERRA PACIFIC INDUSTRIES, INC. IS HEREBY GIVEN NOTICE THAT:**

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed an Administrative Civil Liability in the amount of **thirty thousand dollars (\$30,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **4/5 October 2018**, unless one of the following occurs by **7 August 2018**:
  - a) The Discharger waives the hearing by completing the attached form (checking off the box next to Option #1) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **thirty thousand dollars (\$30,000)**; or
  - b) The Central Valley Water Board agrees to postpone the hearing after the Discharger waives its right to a hearing within 90-days of the date of this complaint and requests to engage in settlement discussions by checking off the box next to Option #2 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed; or
  - c) The Central Valley Water Board agrees to postpone the hearing after the Discharger waives its right to a hearing within 90-days of the date of this Complaint and requests a continuance checking off the box next to Option #3 on the attached form, and returns it to the Board along with a letter describing the issues to be discussed.
3. If a hearing on this matter is conducted, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

  
\_\_\_\_\_  
CLINT E. SNYDER, P.G.  
Assistant Executive Officer

  
\_\_\_\_\_  
(date)

Attachment A: Record of Violations

**WAIVER FORM  
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Sierra Pacific Industries, Inc. (Discharger) in connection with Administrative Civil Liability Complaint **R5-2018-0518** (Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served. The person who has been issued a complaint may waive the right to a hearing."

☐ **(OPTION 1: Check here if the Discharger waives the hearing requirement and will pay in full.)**

- a. I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **thirty thousand dollars (\$30,000)** by check that references "ACL Complaint **R5-2018-0518**" made payable to the *State Water Pollution Cleanup and Abatement Account*. The check shall be sent to, "State Water Resources Control Board, Division of Administrative Services, ATTN: ACL Payment, P.O. Box 1888, Sacramento, California 95812-1888. Payment must be received by **7 August 2018**.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Central Valley Water Board receive significant new information or comments during this comment period, the Central Valley Water Board's Executive Officer may withdraw the complaint, return payment, and issue a new complaint. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

☐ **(OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Central Valley Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

☐ **(OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)** I hereby waive any right the Discharger may have to a hearing before the Central Valley Water Board within 90 days after service of the complaint. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Central Valley Water Board to approve the extension.

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

# ATTACHMENT A ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2018-0518

Sierra Pacific Industries Inc.

Shasta Lake Division

## CALCULATION OF MANDATORY MINIMUM PENALTIES

### RECORD OF VIOLATION FOR MANDATORY PENALTIES

(Data reported under Monitoring and Reporting Programs R5-2010-0034 and R5-2016-0025)

Violation Date	CIWQS Violation ID	Discharge Point	Pollutant/Parameter	Effluent Limit	Analytical/Calculated Results	Percentage Over	Violation Type	180-day Violation Count	MMP
1/19/2016	1004253	D-002	Zinc (µg/L)	10.69 Max daily	16.2	52%	Serious Group II		\$3,000
1/31/2016	1004252	D-002	Lead (µg/L)	0.32 Avg. monthly	0.4	25%	Serious Group II		\$3,000
1/31/2016	1004254	D-002	Zinc (µg/L)	5.33 Avg. monthly	16.2	204%	Serious Group II		\$3,000
1/31/2016	1004251	D-002	Copper (µg/L)	1.82 Avg. monthly	3.2	76%	Serious Group II		\$3,000
2/07/2017	1023106	D-002	Copper (µg/L)	5.1 MDEL	8.0	62.7%	Serious Group II		\$3,000
2/07/2017	1023107	D-002	Zinc (µg/L)	14 MDEL	34.6	147%	Serious Group II		\$3,000
2/09/2017	1023868	D-002	Copper (µg/L)	5.1 MDEL	9.1	78.4%	Serious Group II		\$3,000
2/09/2017	1023869	D-002	Zinc (µg/L)	14 MDEL	57.6	311%	Serious Group II		\$3,000
2/28/2017	1023870	D-002	Copper (µg/L)	5.1 MDEL	8.55	242%	Serious Group II		\$3,000
2/28/2017	1023871	D-002	Zinc (µg/L)	14 MDEL	46.1	559%	Serious Group II		\$3,000
<b>Total Assessment:</b>									<b>\$30,000</b>

#### Notes:

Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.

Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.

OEW: Other Effluent Violation

Non-Serious Violation: A non-serious violation is subject to MMPs if the discharger does any one of the following four or more times in any period of 180 days:

- violates a WDR effluent limitation;
- fails to file a report of waste discharge pursuant to California Water Code section 13260;
- files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
- violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.

\* MMP not assessed for subsequent violation of the same parameter and same violation type on the same day.